

#### **IC 6-4.1-4**

##### **Chapter 4. Filing Requirements**

#### **IC 6-4.1-4-0.5**

##### **Inheritance tax return not required; affidavits; liens**

Sec. 0.5. (a) No inheritance tax return is required under this chapter unless the total fair market value of the property interests transferred by the decedent to a transferee under a taxable transfer or transfers exceeds the exemption provided to the transferee under IC 6-4.1-3-10 through IC 6-4.1-3-12. For purposes of this section, the fair market value of a property interest is its fair market value as of the appraisal date prescribed by IC 6-4.1-5-1.5.

(b) The department of state revenue shall prescribe the affidavit form that may be used to state that no inheritance tax is due after applying the exemptions under IC 6-4.1-3. The affidavit may be:

- (1) recorded in the office of the county recorder if the affidavit concerns real property and includes the legal description of the real property in the decedent's estate; or
- (2) submitted as required by IC 6-4.1-8-4 if the affidavit concerns personal property.

If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 for the transfer of personal property, the affidavit must be submitted with a request for a consent to transfer under IC 6-4.1-8-4.

(c) If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 before personal property may be transferred and the department of state revenue or the appropriate county assessor consents to a transfer of personal property under IC 6-4.1-8-4 after considering an affidavit described in subsection (b), the full value of the personal property may be transferred.

(d) The department of state revenue or the appropriate county assessor may rely upon an affidavit prescribed by the department of state revenue under subsection (b) to determine that a transfer will not jeopardize the collection of inheritance tax for purposes of IC 6-4.1-8-4(e).

(e) It is presumed that no inheritance tax is due and that no inheritance tax return is required if an affidavit described in subsection (b) was:

- (1) properly executed; and
- (2) recorded in the decedent's county of residence or submitted under IC 6-4.1-8-4.

(f) Except as provided in subsection (h), a lien attached under IC 6-4.1-8-1 to the real property owned by a decedent terminates when an affidavit described in subsection (b) is:

- (1) properly executed; and
- (2) recorded in the county in which the real property is located.

(g) Except as provided in subsection (h), a lien attached under IC 6-4.1-8-1 to personal property that is owned by the decedent terminates when:

- (1) an affidavit described in subsection (b) is properly executed;
- (2) the affidavit described in subsection (b) is submitted to the department of state revenue or the appropriate county assessor in conformity with IC 6-4.1-8-4; and
- (3) the department of state revenue or the appropriate county assessor consents to the transfer.

However subdivision (3) does not apply if consent of the department of state revenue or the appropriate county assessor is not required under IC 6-4.1-8-4 before the property may be transferred.

(h) A lien terminated under subsection (f) or (g) is reattached to the property under IC 6-4.1-8-1 if the department of state revenue obtains an order that an inheritance tax is owed.

*As added by Acts 1977(ss), P.L.6, SEC.4. Amended by Acts 1979, P.L.75, SEC.9; Acts 1980, P.L.57, SEC.8; P.L.87-1983, SEC.4; P.L.252-2001, SEC.1.*

#### **IC 6-4.1-4-1**

##### **Inheritance tax return; filing time; contents**

Sec. 1. (a) Except as otherwise provided in section 0.5 of this chapter or in IC 6-4.1-5-8, the personal representative of a resident decedent's estate or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the appropriate probate court within nine (9) months after the date of the decedent's death. The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

- (1) contain a statement of all property interests transferred by the decedent under taxable transfers;
- (2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;
- (3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;
- (4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and
- (5) contain the name and address of the attorney for the personal representative or for the person filing the return.

(b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

*As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.5; Acts 1980, P.L.57, SEC.9; P.L.67-1988, SEC.1; P.L.252-2001, SEC.2.*

#### **IC 6-4.1-4-2**

##### **Extension of filing time; subsequent extensions**

Sec. 2. If the appropriate probate court finds that because of an unavoidable delay an inheritance tax return cannot be filed within

nine (9) months after the date of decedent's death, the court may extend the period for filing the return. After the expiration of the first extension period, the court may grant a subsequent extension if the person seeking the extension files a written motion which states the reason for the delay in filing the return. For purposes of sections 3 and 6 of this chapter, an inheritance tax return is not due until the last day of any extension period or periods granted by the court under this section.

*As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.3.*

#### **IC 6-4.1-4-3**

##### **Failure to file; court ordered appearance upon request of interested parties**

Sec. 3. The appropriate probate court shall order a person who fails to file an inheritance tax return on or before the date the return is due to appear before the court to state why the return has not been filed if an interested party files a motion asking the court to take that action. In addition, the court may on its own motion order the person to enter such an appearance.

*As added by Acts 1976, P.L.18, SEC.1.*

#### **IC 6-4.1-4-4**

##### **Court order; appearance upon request of interested parties**

Sec. 4. The appropriate probate court may order a personal representative of a resident decedent's estate to file an inheritance tax return on or before a date fixed by the court if the personal representative appears before the court in response to an order issued by the court under section 3 of this chapter.

*As added by Acts 1976, P.L.18, SEC.1.*

#### **IC 6-4.1-4-5**

##### **Removal of personal representative; grounds**

Sec. 5. The appropriate probate court may order the removal of the personal representative of a resident decedent's estate and appoint a successor to take the removed personal representative's place if:

- (1) the personal representative fails to appear before the court in response to an order issued by it under section 3 of this chapter; or
- (2) the personal representative fails to file an inheritance tax return on or before the date fixed by the court under section 4 of this chapter.

*As added by Acts 1976, P.L.18, SEC.1.*

#### **IC 6-4.1-4-6**

##### **Penalties for failure to file return; waiver**

Sec. 6. (a) Except as provided in subsection (b) of this section, the appropriate probate court shall charge a person who fails to file an inheritance tax return on or before the due date a penalty in an amount which equals:

(1) fifty cents (\$0.50) per day for each day that the return is delinquent; or

(2) fifty dollars (\$50);

whichever is less. The court shall include the penalty in the inheritance tax decree which it issues with respect to the decedent's estate. The person to whom the penalty is charged shall pay it to the treasurer of the county in which the resident decedent was domiciled at the time of the resident decedent's death.

(b) The appropriate probate court may waive the penalty otherwise required under subsection (a) of this section if the court finds that the person had a justifiable excuse for not filing the return on or before the due date.

*As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.86-1995, SEC.6.*

#### **IC 6-4.1-4-7**

##### **Nonresident decedent; inheritance tax return**

Sec. 7. (a) Except as otherwise provided in section 0.5 of this chapter, the personal representative of a nonresident decedent's estate or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the department of state revenue within nine (9) months after the date of the decedent's death. The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

(1) contain a statement of all property interests transferred by the decedent under taxable transfers;

(2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;

(3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;

(4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and

(5) contain the name and address of the attorney for the personal representative or for the person filing the return.

(b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

*As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.6; Acts 1980, P.L.57, SEC.10; P.L.67-1988, SEC.2; P.L.252-2001, SEC.4.*

#### **IC 6-4.1-4-8**

##### **Federal estate tax return; filing with state**

Sec. 8. If a federal estate tax return is filed for a decedent's estate and if a tax is imposed under this article as a result of the decedent's death, the personal representative of the decedent's estate or the trustee or transferee of property transferred by the decedent shall:

- (1) concurrently with the filing of the federal estate tax return file a signed copy of that return with the department of state revenue; and
- (2) file a copy of the final determination of federal estate tax, whether issued by the internal revenue service or a federal court, with the department of state revenue within thirty (30) days after it is received.

*As added by Acts 1976, P.L.18, SEC.1.*

**IC 6-4.1-4-9**

**Filing fee prohibited**

Sec. 9. A person may not be required to pay a fee to file an inheritance tax return.

*As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.11.*